

1 and her husband for the period ended June 4,
2 2002.

3 A. Okay.

4 Q. And focusing your attention on page
5 five of six, you will see that there is some
6 billing here for USBI on behalf of Business
7 Options, Inc.

8 A. Okay.

9 Q. And the figure that you had mentioned
10 before -- the \$3.75 figure appears on this
11 bill --

12 A. Uh-huh.

13 Q. -- we can see it this time --

14 A. Yes.

15 Q. -- for Universal Service. Now, I
16 think we had discussed earlier that when an
17 individual would receive a telemarketing call,
18 that the individual was informed of what the
19 Super-Saver monthly charge would be, and that was
20 the \$4.90.

21 A. Uh-huh.

1 Q. And that the intrastate rate for calls
2 was 5.9 cents or whatever it was.

3 A. Yes.

4 Q. But as I understood it, there was no
5 mention of the monthly fee for whatever the
6 Universal Service was going to be; correct?

7 A. That's correct. We actually -- When
8 we put it in our scripts and submitted them to
9 the sales and verification people, our scripts
10 were disapproved, and we were asked to take that
11 out.

12 Q. For the Universal Service charge that
13 you were going to impose?

14 A. Yes.

15 Q. Okay. Did that rejection -- is that
16 rejection in writing anywhere?

17 A. I don't know.

18 Q. Okay. If that's something you could
19 locate, I would like to see it.

20 MR. HAWA: What is it that you want?

21 MR. SHOOK: The scripts that proposed

1 to include the reference to the Universal Service
2 charge.

3 A. It may have been a rejection to put
4 the pick-freeze charge in. I don't know if it
5 was pick-freeze or USBI that was rejected.

6 Q. Whatever along those lines that you
7 could find.

8 A. Yes.

9 Q. Now, I think we also discussed whether
10 or not the intrastate rate had been mentioned in
11 the telemarketing call, and it was my
12 recollection that you had testified that was not
13 included?

14 A. It's not included because it changes.
15 It's different in the different states.
16 Especially when we first started selling, all the
17 states across the board were different. Our
18 sales reps would indicate that our rates are
19 competitive, that we keep our rates on intrastate
20 calling the same as what everyone else is
21 selling -- well, the big companies.

1 Q. But the rate itself was not actually
2 mentioned to the potential customer?

3 A. If the consumer ever wanted to know,
4 all of our telemarketers have or our outside
5 sales people all have our intrastate rates
6 available.

7 Q. There was a chart they would refer to
8 of some kind?

9 A. Yes.

10 Q. What we are talking about here is
11 telemarketing to a prospective customer, and
12 there are certain things that are not mentioned.
13 If it turns out, as you say, there is
14 constructive notice as to what the intrastate
15 toll charge would be, so be it.

16 MR. HAWA: Could I ask for
17 clarification on that?

18 MR. SHOOK: Sure.

19 MR. HAWA: There is constructive
20 notice of rates or notice of if you are filing
21 tariff. There is notice that the customer

1 receives.

2 MR. SHOOK: Right. What we are
3 talking about here is telemarketing call to a
4 prospective customer, and there are certain
5 things that are not mentioned. If it turns out,
6 as you say, that there is constructive notice as
7 to what the intrastate toll charge would be, so
8 be it.

9 MR. HAWA: Okay. So he is not talking
10 about the notice from filing tariff, but to the
11 consumer.

12 WITNESS: The verification companies
13 were always given copies of our intrastate rates
14 also in case it came up.

15 BY MR. SHOOK:

16 Q. In case the question was asked by the
17 prospective customer --

18 A. Yes.

19 Q. -- "What will I be paying for
20 intrastate toll calls?"

21 A. Yes. And I think there is a place on

1 our order form that the sales rep is filling out
2 to put in the intrastate rate. I am completely
3 certain that the form we use has this.

4 Q. Now, I want to go over some
5 information that appears in the admissions -- the
6 questions and the answers.

7 A. Okay.

8 Q. Why don't I give you a copy, because
9 that has the answers, and I can look at the
10 questions that we have got here.

11 A. Okay.

12 Q. Now, the first ones that I would like
13 you to look at, I believe they are paired in a
14 way. So it would be admissions question number
15 84 and 102.

16 A. The first group here?

17 Q. No.

18 A. Okay.

19 Q. It will probably take you awhile to
20 actually get to them.

21 A. Questions 82 through 92, you said?

1 Q. No, 84 to 102.

2 A. Here's 84, okay.

3 Q. And then look at 102 as well. They
4 are basically concerning pretty much the same
5 matter. One of them is focusing more on -- or
6 one of them refers to interlateral tolls, and the
7 other one refers to calling the same person for
8 the same period of time.

9 A. Okay.

10 Q. All right. And you will note --
11 Before we go on, you will just note the answers
12 that were provided.

13 A. Yes.

14 Q. Now, it's our understanding that
15 notwithstanding the fact that there was no
16 authorization on the part of Miss Beeson during
17 that period that's noted here -- April 15 through
18 April 23, 2002 -- that a request to switch her
19 service was made. And we understand that an
20 earlier switch had occurred.

21 A. Yes.

1 Q. But that had occurred following a
2 telephone conversation between, first, a
3 telemarketer and Miss Beeson and then the
4 verification call.

5 A. Yes. I am sorry -- could we do this a
6 little more slowly because I don't have a
7 recollection. So this is with Miss Beeson?

8 Q. Right. What I am leading up to is
9 that in March we have records of telephone
10 conversations that took place --

11 A. Uh-huh.

12 Q. -- first between the telemarketer and
13 Miss Beeson and then a verifier --

14 A. Yes.

15 Q. -- and Miss Beeson.

16 A. Right.

17 Q. Whereas in April, we don't have this;
18 we don't have a record of a telemarketer call or
19 verifier call, and yet a change ultimately took
20 place --

21 A. Yes.

1 Q. -- as reflected in the June statement
2 that I showed you for Miss Beeson.

3 A. Okay.

4 Q. And what I was wondering is, could you
5 explain to us how it was that this change for
6 Miss Beeson came about.

7 A. Yes. Should I just elaborate on this?

8 MR. HAWA: Yeah.

9 A. Okay.

10 MR. HAWA: Just tell him what occurred
11 and the timeframe for the policy.

12 A. Okay. After we made the telemarketing
13 call, we would follow up that phone call with
14 another call and offer the customer the
15 opportunity to have a pick-freeze, and we would
16 help them procure that by calling the local
17 telephone company for them. So most of the time,
18 they would say yes. We would call them the same
19 day or the next day after we talked to them after
20 the phone call and --

21 MR. HAWA: Do you want to explain what

1 a pick-freeze is?

2 WITNESS: Okay.

3 MR. HAWA: Okay. Go ahead.

4 BY MR. SHOOK:

5 Q. I was going to ask eventually, but go
6 ahead.

7 A. A pick-freeze is when the customer
8 chooses your service, and they want your service
9 until they instruct the local phone company that
10 they don't want our service anymore. So by them
11 saying yes to a pick-freeze, they are in fact
12 saying no matter what happens, they want to be
13 with unless they say otherwise.

14 Q. I see. So this kind of -- this
15 pick-freeze ensures that another company --
16 another long-distance company can't come in and
17 make a claim on behalf of the individual that the
18 individual wants to switch service to the new
19 company?

20 A. Right.

21 Q. Instead, the only way that change can

1 take place is if the customer him or herself
2 calls the local company and said, "I want to
3 change from Company A to Company B."

4 A. Yes.

5 Q. All right. So you were making mention
6 of a pick-freeze, and it has some relation to the
7 Beeson situation?

8 A. Yes. So just about every customer
9 that we contacted would want that service, and we
10 would then three-- way call with them to the
11 local carrier, and the carrier would actually do
12 something -- put a note or something on their
13 account. And then -- I don't know when it
14 started or what decision prompted it, but the
15 local carriers; namely, Ameritech; stopped doing
16 that -- stopped offering pick-freezes. And it
17 became -- well, actually before that, it because
18 burdensome. We would get the customer on the
19 phone; they would say yes to it; and we would
20 three-way call the local carrier. It would take
21 25 minutes to actually get through to an

1 operator. That was problematic, but it was still
2 worth it. Without it, you could have a customer
3 one day; and two days later, they would be
4 switched right back to another company. So by
5 using a pick-freeze with the consumer, it would
6 keep them with our company.

7 So as time went on, all of a sudden
8 the length of calls -- you know, our customer had
9 to sit on the line, and that became problematic.
10 The customer wanted our service, they wanted the
11 pick-freeze, but they didn't want to sit on the
12 phone with the local company for 25, 30 minutes.
13 I don't know what caused Ameritech to stop
14 offering pick-freezes, but they did. They say,
15 "No, we don't offer that service anymore."

16 So at that point, we put together a
17 program to offer the customer at the time of the
18 sales call the opportunity that we would
19 pick-freeze them. And if they wanted to cancel
20 their service with us, they agreed to contact us
21 directly. And if we did not hear directly from

1 them and we noticed that they hadn't canceled and
2 that they didn't have any usage -- I mean, they
3 weren't making any phone calls, that we would go
4 ahead and put them back on our service.

5 So each of these cases that you
6 presented before me fall under that category --
7 they fell under our pick-freeze process.

8 Q. So, in other words, when the initial
9 telemarketing call was made to these eight
10 individuals that are referenced here in our
11 proceeding and that we are essentially accusing
12 you of having slammed these individuals --

13 A. Right.

14 Q. -- that is one of the things that took
15 place during this first telemarketing call was an
16 offer on the part of Business Options, Inc. to
17 pick-freeze these individuals and that there were
18 certain steps that they had to take in order to
19 switch telephone service. Is that the gist of
20 what you are saying?

21 A. It's the gist of that, but it was not

1 that detailed. It was more direct. If you want
2 to cancel your service, with us, you need to call
3 this phone number.

4 Q. By "this phone number," a phone number
5 at Business Options?

6 A. Yes.

7 Q. Or Buzz Telecom, or whatever?

8 A. Yes.

9 Q. And the individual was told this?

10 A. They were supposed to be told that.

11 And, again, it was to be reiterated in the
12 verification script. And in reviewing the
13 documentation and also in reviewing the taped
14 authorizations, I don't know if the phone number
15 was given out at that time or not.

16 Q. Well, let me tell you that with
17 respect to the five verification scripts that I
18 have seen, I do not recall seeing any reference
19 to the policy that you mentioned by the verifier.
20 I cannot tell you one way or the other whether I
21 have seen or heard anything like that relative to

1 the telemarketer --

2 A. Right.

3 Q. -- but certainly I did not see that
4 with respect to the verifier.

5 A. Right. Neither did I. At least, I
6 don't recall seeing anything, so -- I mean,
7 that's the way -- that's the short history of it,
8 and that's how it was supposed to work. The
9 consumer was supposed to be communicated to that
10 if they wanted to cancel our service, they needed
11 to contact us. Otherwise, we would service them
12 by just putting them back on our service. We
13 have a very competitive rate and have a good
14 product. And the response, when we were calling
15 people up and offering them a pick-freeze, was
16 just about unanimous that they wanted that.

17 And what was to be done compared to
18 what was actually done with these five
19 customers -- or eight customers, I think there
20 are -- I am not sure that they were handled
21 exactly correct. This is one of our procedures

1 that we reviewed with our counsel, and they
2 recommend that we cease that pick-freeze process
3 altogether, which we have done so.

4 Q. So roughly how long was this
5 pick-freeze policy in place?

6 A. I would guess two years.

7 Q. And so for a customer to effect a
8 change to another company, the customer was
9 required to call Business Options --

10 A. Yes.

11 Q. -- and notify Business Options, "Yes,
12 in fact I am changing my long-distance service
13 from Business Options to whatever."

14 A. Right. They had to say, "We don't
15 want you anymore." Our number was the phone
16 number on the telephone bill that they had. So
17 typically, if they were going to call anybody,
18 they would wind up calling us.

19 Q. So that number was there for purposes
20 not only of questions or comments, but also if
21 they wanted to effect a change in service from

1 Business Options to another entity?

2 A. Yes.

3 MR. SHOOK: Off the record. Well,
4 let's take a five-minute break.

5 (A short break was taken.)

6 Q. All right. With respect to the pick
7 freeze process that you've described, you
8 indicated that you certainly were aware of that.
9 Do you know whether your brother Keanan was aware
10 that was the policy that the company had?

11 A. Yes.

12 Q. And do you know if Mr. Brzycki was
13 aware that was the policy the company had?

14 A. Yes.

15 Q. And considering that the policy
16 apparently carried over until sometime this year,
17 from discussions that we've had, do you know
18 whether Miss Green was aware of the pick-freeze
19 policy?

20 A. I don't know.

21 Q. Do you know whether Shannon Dennie was

1 aware of this pick-freeze policy?

2 A. I don't know.

3 Q. Now, could you roughly describe the
4 process by which a customer actually becomes a
5 Business Options customer after the telemarketing
6 call takes place and the customer says, "Yes, I
7 want to choose Business Options."

8 A. Okay.

9 Q. Describe for me, if you can, how we
10 get from that point to the point where the
11 customer is actually receiving Business Options
12 services and then receiving a bill?

13 A. Okay. The order is written up and is
14 verified by a verification company. The
15 verification company sends the orders that were
16 successful to our data entry people. Data entry
17 then enters the customer information. And I
18 think daily or weekly an electronic file is
19 created and sent off to our underlying carrier,
20 who then would forward that file and break it out
21 into the different LEC's. And then the

1 customer's information goes to the local exchange
2 carrier, who then pick those customers to us.
3 Once the customer starts making phone calls, then
4 the call records -- the underlying carrier would
5 send them back to us. We take those calls, and
6 we assign those calls a rate and send it on to
7 USBI, who would then forward those charges to the
8 customer's local exchange carrier, and they get
9 those charges on the bill.

10 Q. Now, in terms of some of the steps
11 that you mentioned, the verifier sends the
12 information relative to the respective customer
13 back to whom? Who is it that actually physically
14 gets the information from the verifier?

15 A. I believe at the end of the day the
16 verification company -- at least how it was
17 working prior to us switching to the company in
18 Florida -- they were taking all the successful
19 customer orders and then taking them and putting
20 them in a box somewhere where the data entry
21 people can get them -- a mailbox.

1 Q. And the data entry people are the ones
2 who are supervised by Shalanda?

3 A. Yes, so she would be better to answer
4 that question.

5 Q. So Shalanda's people at that point
6 enter the data into what?

7 A. They have a computer, and they have
8 some type of software that they enter it into --
9 some type of database.

10 Q. So after the data entry takes place, a
11 report is generated, and you indicated it could
12 have been on a daily basis, but it could also
13 have been on a weekly basis?

14 A. I didn't say report; I said the data.
15 Let's say we have a hundred orders today. At the
16 end of the data entry, after data entering these
17 orders, they would be grouped together and
18 created into an electronic file and then sent off
19 to the underlying carrier.

20 Q. And do you know how often that it was
21 sent off to the carrier?

1 A. I don't know.

2 Q. What was the usual time lag between
3 the time that the verifier dropped the
4 information in the box to the point where the
5 information was sent to either Quest or Global
6 Crossing?

7 A. I think The Verification Company kept
8 all their orders throughout the day. And at the
9 end of the day, they would send them, put them in
10 the mailbox, and then the data entry people would
11 get them the next day when they came in. And the
12 next day they would go ahead and data enter them.
13 And probably, if they sent them off, it would be
14 the same day. I think the customer would be
15 picked within three to ten days.

16 Q. So there was at least a one-day time
17 lag between the telemarketing and the
18 verification calls to the point where the request
19 for a change was actually sent to Quest or Global
20 Crossing?

21 A. I believe that to be true.

1 Q. And then once Quest or Global Crossing
2 had the information that there was to be a change
3 in long-distance service provider to Business
4 Options, about how much time was it your
5 understanding that it took for that information
6 to then reach the local exchange carrier?

7 A. I am going to answer that in two
8 parts, actually. What is the reported time frame
9 or guaranteed time frame for doing it, and what
10 is our understanding as to the actual.

11 Q. So they had a guarantee?

12 A. I think that they would stay within 3
13 days to 28 days. It's not like, "It will be done
14 tomorrow or the next day." And I think, I think
15 we're safe to quote within five to seven days --
16 within five to seven business days we would
17 switch. It may have been faster than that, but I
18 really don't know.

19 Q. I understand that a certain amount of
20 that is not in your control at all.

21 A. Yeah, we would data enter them the

1 next day, and I'm fairly certain -- I think we
2 would send a file daily. So I think we did our
3 part within 24 hours and then however long Quest
4 or Global Crossing or the LEC took could be up to
5 a full month.

6 Q. And you would know that the change
7 itself had actually taken place when the customer
8 in question made a long-distance call on your
9 facilities or with facilities you had, I guess,
10 purchased from Quest or Global Crossing.

11 A. A call record would show up. Also,
12 our carrier would send out notification on
13 something called TCI code or some acronym there,
14 where they would send us somehow electronically
15 codes of what was going on -- if the customers
16 were switched to our service. And I think
17 somehow Shalanda could add up how many of those
18 people are switched to us on a weekly basis, and
19 she keeps statistics that way.

20 Q. And then you in turn would send that
21 information to USBI.

1 A. No, we would only send USBI billing
2 information.

3 Q. Billing information --

4 A. Right.

5 Q. -- that this particular phone number
6 should be billed or whatever?

7 A. Service fees, this call, that call.

8 Q. Now, did there come a time when you
9 became aware that Vermont -- the Vermont
10 Department of Public Service filed a petition
11 with the Vermont Public Service Board requesting
12 an investigation into the business practices of
13 Business Options, Inc.?

14 A. I'm sure there was, but I don't know
15 the specific date or when it was.

16 Q. What was your understanding as to why
17 the Vermont Department of Public Service filed
18 the petition?

19 A. I don't know. Good question. I don't
20 know.

21 Q. Was this the first event?

1 MR. HAWA: Do you have a copy of it?

2 MR. SHOOK: I think I have a copy of
3 it.

4 MR. HAWA: Okay.

5 MR. SHOOK: Let's take a short break.

6 (A short break was taken.)

7 BY MR. SHOOK: All right.

8 Q. I had asked the question before, but
9 did there come a time when you became aware that
10 the Vermont Department of Public Service filed a
11 petition with the Vermont Public Service Board
12 requesting an investigation into the business
13 practices of Business Options, Inc.? And you had
14 indicated that you were not really all that clear
15 that such had occurred.

16 MR. HAWA: Did I give you a copy of
17 the stipulation?

18 WITNESS: Yes, you did.

19 BY MR. SHOOK:

20 Q. Perhaps to help put this in time frame
21 and maybe that will assist your recollection, the